



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/741,332	12/21/2000	Kinya Kato	35.C14996	6155

5514 7590 09/15/2003

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

EXAMINER

WONG, EDNA

ART UNIT	PAPER NUMBER
----------	--------------

1753

DATE MAILED: 09/15/2003

He

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/741,332

Applicant(s)

KATO ET AL.

Examiner

Edna Wong

Art Unit

1753

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 September 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See pages 2-5.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See pages 2-5.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

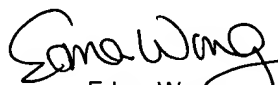
Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 2-26, 28-39, 56-60 and 63-65.

Claim(s) withdrawn from consideration: 1, 27 and 66.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14.
10. ☐ Other: _____


Edna Wong
Primary Examiner
Art Unit: 1753

This is in response to the Amendment After Final dated September 2, 2003, 2003. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Response to Arguments

Double Patenting

Claims **2-26, 28-39, 56-60 and 63-65** have been provisionally rejected under the judicially created doctrine of double patenting over claims **46-94** of copending Application No. **09/794,836** (Kato et al.).

The rejection of claims 2-26, 28-39, 56-60 and 63-65 under the judicially created doctrine of double patenting over claims 46-94 of copending Application No. 09/794,836 has been maintained until the Terminal Disclaimer is submitted by the Applicants.

Claim Rejections - 35 USC § 103

Claims **28-35 and 37-39** have been rejected under 35 U.S.C. 103(a) as being unpatentable over **Calcote et al.** (US Patent No. 5,813,799) in combination with **Robson** (US Patent No. 5,308,507).

The rejection of claims 28-35 and 37-39 under 35 U.S.C. 103(a) as being unpatentable over Calcote et al. in combination with Robson would have been withdrawn in view of Applicants' remarks, and the claims would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claims.

Response to Amendment

Election/Restrictions

This application contains claims **1, 27 and 66** are drawn to an invention nonelected with traverse in Paper No. 12. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Claim Objections

Claim **73** would have been objected to because of the following informalities:

Claim 73

line 1, "(Original)" should be amended to -- (New) --.

Appropriate correction is required.

NOTE

I. New claims **67-81** raise new issues that would require further consideration and search.

Claim 67, lines 1-5, recites:

A method of purifying polluted soil which contains a pollutant, comprising the steps of:

heating the polluted soil to make the soil emit a gas containing the pollutant;

obtaining a mixture of the gas containing the pollutant and chlorine; and
irradiating the mixture with light to decompose the pollutant.

The method is open to irradiating a gas and liquid mixture. This is different from irradiating the gaseous mixture in the originally claimed method.

II. New claims **82-85** raise new issues that would require further consideration and search.

Claim 85, lines 7, recites:

An apparatus for purifying polluted soil which contains a pollutant, comprising:
a heater to heat the polluted soil to make the soil emit a pollutant;
a mixing means having a space to mix the gas containing the pollutant and
chlorine; and
a light irradiating means to irradiate the mixture with light to decompose the
pollutant.

The apparatus structurally comprises a heater, a mixing means having a space and a light irradiating means. This is different from the originally claimed apparatus which also included a chlorine-containing gas generating means.

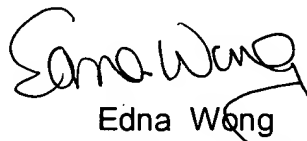
Thus, the method of claims 67-81 and the apparatus of claims 82-85 are

broader in scope than originally claimed, and thus, they raise new issues that would require further consideration and search.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edna Wong whose telephone number is (703) 308-3818. The examiner can normally be reached on Mon-Fri 7:30 am to 5:00 pm, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nam Nguyen can be reached on (703) 308-3322. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1495.


Edna Wong
Primary Examiner
Art Unit 1753

EW
September 11, 2003